

**BASS BERRY SIMS** PLC


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The parties' joint request to stay discovery as set forth herein is **GRANTED**. All discovery deadlines and conferences are hereby **ADJOURNED**.

March 16, 2023

Dated: March 16, 2023  
New York, New York

**SO ORDERED.**

  
**JENNIFER L. ROCHON**  
United States District Judge

**VIA ELECTRONIC CASE FILING**

The Honorable Jennifer L. Rochon  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 1920  
New York, NY 10007

**Re: *National Union Fire Insurance Company of Pittsburgh, Pa., v. Surgalign Spine Technologies, Inc. & Organogenesis, Inc.*, Case No. 1:22-cv-09870 (JLR)**  
**Joint Motion to Stay Discovery and Reschedule Initial Pretrial Conference**

Dear Judge Rochon:

Pursuant to Federal Rules of Civil Procedure 1 and 26, the parties jointly request that the Court stay discovery in this matter, except as otherwise noted below, and reschedule the initial pretrial conference pending resolution of Defendants' motions to dismiss the Amended Complaint.

Plaintiff National Union Fire Insurance Company of Pittsburgh, Pa., as subrogee and assignee of Montefiore Medical Center, filed this action against Defendants Surgalign Spine Technologies, Inc. and Organogenesis, Inc. Surgalign and Organogenesis are companies that sell products used in spinal surgeries. National Union alleges that Surgalign and Organogenesis retained a sales representative that submitted false invoices to Montefiore, thereby falsely representing that the Defendants' products had been used in spinal surgeries. National Union also alleges that Defendants' sales representative bribed a Montefiore employee to assist in the fraud against Montefiore. National Union alleges that Montefiore paid Defendants more than \$3 million for products that had not been used and thus, suffered a loss of in excess of \$3 million. National Union reimbursed Montefiore for its loss pursuant to the terms and conditions of its insurance policy and now alleges fraud, unjust enrichment, aiding and abetting a breach of fiduciary duty, and negligent supervision.

The original complaint was filed on November 18, 2022. (ECF No. 1.) The operative Amended Complaint, which the Court found related back to the filing of the original complaint under Federal Rule of Civil Procedure 15(c), was filed on January 27, 2023. (ECF Nos. 13, 19.) Surgalign waived service of the summons, which extended its deadline to respond until March 10, 2023. (ECF No. 11.) Organogenesis was served on January 31, 2023, (ECF No. 21) and by agreement of National Union was also given until March 10, 2023, to respond. On March 10, 2023, Surgalign and Organogenesis each moved under Federal Rule of Civil Procedure 12(b)(6)

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for dismissal of the claims against them in the Amended Complaint. (ECF Nos. 37, 39.) Defendants' motions, taken together, seek dismissal of the Amended Complaint in full.

The Court has scheduled the initial pretrial conference for March 23, 2023. (ECF No. 22.) Under the Court's Individual Rules of Practice in Civil Cases, the parties must file a proposed Civil Case Management Plan and Scheduling order and accompanying joint letter by March 16, 2023.

On February 28, 2023, the parties conducted a Rule 26(f) conference. During the Rule 26(f) conference, Defendants proposed that the parties stay discovery pending resolution of Defendants' motions to dismiss. Having considered Defendants' proposal, National Union agrees that all discovery and related deadlines, including initial disclosures under Federal Rule of Civil Procedure 26(a)(1), issued to or due from Surgalign, Organogenesis, National Union, and Montefiore, their predecessors, their current and former employees, and their agents not alleged to be participants in the fraud on Montefiore should be stayed pending resolution of Defendants' motions to dismiss. This proposed stay does not stay discovery issued to any other third parties.

The Court enjoys broad discretion to stay discovery for good cause shown. *See Integrated Sys. & Power, Inc. v. Honeywell Int'l, Inc.*, 2009 WL 2777076 (S.D.N.Y. Sept. 1, 2009) (granting a stay of discovery pending resolution of a motion to dismiss for efficiency purposes). Wherefore, in the interests of efficiency and judicial economy, the parties jointly request that the Court enter an order (i) staying all discovery and related deadlines, including initial disclosures under Federal Rule of Civil Procedure 26(a)(1), issued to or due from Surgalign, Organogenesis, National Union, and Montefiore, their predecessors, their current and former employees, and their agents not alleged to be participants in the fraud on Montefiore pending resolution of Defendants' motions to dismiss, and (ii) extending the date of the initial pretrial conference until 30 days after the Court rules on Defendants' motions to dismiss, or such other date as the Court deems appropriate.

Respectfully submitted,



Brian D. Roark

Copies by ECF and Email:

All Counsel of Record

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APPROVED FOR FILING

s/ Brian D. Roark

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